

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 51

March 31, 1998, 4:01 pm
Page S-2811 Temp. Record

BUDGET RESOLUTION/No Immunity for Tobacco Companies

SUBJECT: Senate Concurrent Budget Resolution for fiscal years 1999-2003 . . . S.Con. Res. 86. Gregg/Conrad perfecting amendment No. 2168 to the Gregg amendment No. 2167.

ACTION: AMENDMENT AGREED TO, 79-19

SYNOPSIS: As reported, S.Con. Res. 86, the Senate Concurrent Budget Resolution for fiscal years 1999-2003, will balance the unified budget in 1998 and will run budget surpluses for each of the next 5 fiscal years. Both Federal spending and Federal revenues will increase 3.5 percent from fiscal year (FY) 1998 to FY 1999. All surpluses will be reserved for Social Security reform. A reserve fund will be established to allow the entire Federal share of revenues resulting from a potential tobacco settlement to be dedicated to bolstering Medicare's solvency.

The Gregg amendment would express the sense of the Senate "that the levels in this resolution assume that no immunity will be provided to any tobacco product manufacturer with respect to any health-related civil action commenced by a State or local governmental entity or an individual prior to or after the date of the adoption of this resolution."

The Gregg/Conrad perfecting amendment to the Gregg amendment would strike all after the first word and substitute language to the same effect.

NOTE: After the vote, the underlying amendment was adopted by voice vote.

Those favoring the amendment contended:

We are very concerned about the direction that negotiations are taking on a proposed tobacco settlement. It appears that tobacco companies, in return for giving up certain advertising rights, will be given immunity from lawsuits. We are amazed and outraged that such a deal is being contemplated. While it is true that the restrictions that can be placed on advertising are limited by the First Amendment, it is also true that some restrictions can be imposed, and it is also true that there are other ways to discourage tobacco

(See other side)

YEAS (79)				NAYS (19)		NOT VOTING (2)	
Republican (37 or 69%)		Democrats (42 or 95%)		Republicans (17 or 31%)	Democrats (2 or 5%)	Republicans (1)	Democrats (1)
Abraham	Kyl	Akaka	Johnson	Bennett	Ford	Hutchinson- ²	Mikulski- ²
Allard	Lugar	Baucus	Kennedy	Burns	Hollings		
Ashcroft	Mack	Biden	Kerrey	Campbell			
Bond	McCain	Bingaman	Kerry	Coats			
Brownback	Murkowski	Boxer	Kohl	Cochran			
Chafee	Nickles	Breaux	Landrieu	Enzi			
Collins	Roberts	Bryan	Lautenberg	Faircloth			
Coverdell	Roth	Bumpers	Leahy	Gorton			
Craig	Santorum	Byrd	Levin	Hagel			
D'Amato	Shelby	Cleland	Lieberman	Hatch			
DeWine	Smith, Bob	Conrad	Moseley-Braun	Helms			
Domenici	Smith, Gordon	Daschle	Moynihan	Inhofe			
Frist	Snowe	Dodd	Murray	Jeffords			
Gramm	Specter	Dorgan	Reed	Lott			
Grams	Thomas	Durbin	Reid	McConnell			
Grassley	Thompson	Feingold	Robb	Sessions			
Gregg	Thurmond	Feinstein	Rockefeller	Stevens			
Hutchison	Warner	Glenn	Sarbanes				
Kempthorne		Graham	Torricelli				
		Harkin	Wellstone				
		Inouye	Wyden				

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

companies from marketing their deadly product. Further, it is likely that the restrictions will prove to be meaningless because they will not apply to retailers and others involved in marketing cigarettes.

While the tobacco companies will be giving up next to nothing, the American people will be giving up a lot. They will be getting immunity from lawsuits. For years, tobacco company representatives came before Congress and swore under oath that their products caused no health problems, that they never targeted children with their advertising, that they had never manipulated nicotine levels in order to make their products more addictive, and that their products were not addictive. Now we have documents that prove they were lying on all counts. Hundreds of thousands of Americans have been addicted and have died. We have all had relatives and friends who have wanted to quit smoking but who have been unable to give up the habit, and we have watched them sicken and die.

Ironically, Congress has been unable to pass product liability laws to protect legitimate industries that produce legitimate products that benefit Americans. Not even the most minimal protections have been able to get past liberal Members of Congress who are anxious to protect greedy trial lawyers' right to pursue unjust lawsuits against companies. The only exception has been for the small aircraft industry, and that law took more than a decade to pass, and did not pass until more than 90 percent of the industry had been wiped out by lawsuits.

Our colleagues who will not give even the slightest protection to toaster makers, computer manufacturers, or any other company producing a beneficial product now want us to consider giving not minimal protections, but immunity, to the producers of a product that by its very nature causes an addiction that causes extreme health problems, is often deadly, and is deliberately peddled to our children. We absolutely will not. It is an affront to make that suggestion. The Gregg amendment would put the Senate on record as opposing immunity for tobacco pushers. We urge our colleagues to give it their support.

Those opposing the amendment contended:

We oppose this amendment because we favor a tobacco settlement. We are not saying that we favor immunity from suits for tobacco companies or for anybody else. However, as a practical political matter, if any deal is going to be reached we will very likely have to compromise by giving limited immunity. The tobacco companies do not have to settle with anybody, and they have had a very long history of winning lawsuits. We can allow matters to drag on for years through the courts, we can maybe even see some suits win in a few States and watch lawyers get rich and a few plaintiffs get money, but not nearly as much will be accomplished as will be accomplished by a settlement. We have the opportunity, this year, to begin collecting hundreds of billions of dollars from tobacco manufacturers and to use that money to treat tobacco's current victims and to stop other people, especially children, from taking up the deadly habit of smoking. Some supporters of the tobacco industry are not at all pleased with the proposals now being considered by the Senate, and would love to see the Senate take an intransigent stand because doing so will kill any chance of passing a bill. We do not want to kill this proposal in the cradle. Now is not the time to discuss any issues of liability--we should wait until the bill is on the floor. For that reason, we oppose this amendment.